

Commodity Futures Trading Commission

§ 38.150

(b) Nothing in this section shall prohibit any counterparty from complying voluntarily with the requirements of section 2(h)(8) of the Act sooner than as provided in paragraph (a) of this section.

[78 FR 33630, June 4, 2013]

§ 38.12 Process for a designated contract market to make a swap available to trade.

(a)(1) *Required submission.* A designated contract market that makes a swap available to trade in accordance with paragraph (b) of this section, shall submit to the Commission its determination with respect to such swap as a rule, as that term is defined by § 40.1 of this chapter, pursuant to the procedures under part 40 of this chapter.

(2) *Listing requirement.* A designated contract market that makes a swap available to trade must demonstrate that it lists or offers that swap for trading on its trading system or platform.

(b) *Factors to consider.* To make a swap available to trade, for purposes of section 2(h)(8) of the Act, a designated contract market shall consider, as appropriate, the following factors with respect to such swap:

(1) Whether there are ready and willing buyers and sellers;

(2) The frequency or size of transactions;

(3) The trading volume;

(4) The number and types of market participants;

(5) The bid/ask spread; or

(6) The usual number of resting firm or indicative bids and offers.

(c) *Applicability.* (1) Upon a determination that a swap is available to trade on any designated contract market or swap execution facility pursuant to part 40 of this chapter, all other designated contract markets and swap execution facilities shall comply with the requirements of section 2(h)(8)(A) of the Act in listing or offering such swap for trading.

(d) *Removal*—(1) *Determination.* The Commission may issue a determination that a swap is no longer available to trade upon determining that no swap execution facility or designated contract market lists such swap for trading.

(2) *Delegation of Authority.* (i) The Commission hereby delegates, until it orders otherwise, to the Director of the Division of Market Oversight or such other employee or employees as the Director may designate from time to time, the authority to issue a determination that a swap is no longer available to trade.

(ii) The Director may submit to the Commission for its consideration any matter that has been delegated in this section. Nothing in this section prohibits the Commission, at its election, from exercising the authority delegated in this section.

[78 FR 33631, June 4, 2013]

Subpart B—Designation as Contract Market

SOURCE: 77 FR 36700, June 19, 2012, unless otherwise noted.

§ 38.100 Core Principle 1.

(a) *In general.* To be designated, and maintain a designation, as a contract market, a board of trade shall comply with:

(1) Any core principle described in section 5(d) of the Act, and

(2) Any requirement that the Commission may impose by rule or regulation pursuant to section 8a(5) of the Act.

(b) *Reasonable discretion of the contract market.* Unless otherwise determined by the Commission by rule or regulation, a board of trade described in paragraph (a) of this section shall have reasonable discretion in establishing the manner in which the board of trade complies with the core principles described in this subsection.

Subpart C—Compliance With Rules

SOURCE: 77 FR 36700, June 19, 2012, unless otherwise noted.

§ 38.150 Core Principle 2.

(a) *In general.* The board of trade shall establish, monitor, and enforce compliance with the rules of the contract market, including:

(1) Access requirements;